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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		914-126
	Application Number	Filed
	09/816,139	March 26, 2001
	First Named Inventor	
TAKITA		
	Art Unit	Examiner
	2143	G. Neurauter
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> Applicant/Inventor</p> <p><input type="checkbox"/> Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> Attorney or agent of record 34,725 (Reg. No.)</p> <p><input type="checkbox"/> Attorney or agent acting under 37CFR 1.34. Registration number if acting under 37 C.F.R. § 1.34 _____</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*</p> <p><input checked="" type="checkbox"/> *Total of 1 form/s are submitted.</p>		


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January 29, 2007

Date

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application:

Yukiko TAKITA

Atty. Ref.: 914-126

Serial No.: 09/816,139

Group Unit: 2143

Filed: March 26, 2001

Examiner: G. Neurauter

For: SYSTEM, METHOD AND APPARATUS FOR RECEIVING AND DISTRIBUTING
CONTENT (As Amended)

January 29, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to the OG Notice of July 12, 2005, applicants hereby request a pre-appeal brief review of this case for at least the following reasons. This Request accompanies a Notice of Appeal.

Remarks begin on page 2.

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01 FC:1401
02 FC:1253

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REMARKS

The identification of the pending and rejected claims on the office action summary sheet and on page 2 of the final office action are incorrect. Claims 1-4, 6-12 and 14-44 are pending in this application.

Claims 1-4, 6, 10, 12-32 and 34-44 were rejected under 35 U.S.C. Section 102(e) as allegedly being "unpatentable" over Conrad et al. (U.S. Patent No. 6,810,527). Although the rejection is stated to be under 35 U.S.C. Section 102(e), the body of the rejection indicates that the rejection should be under 35 U.S.C. Section 103(a).

Independent claims 1, 2, 10, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 42 each requires a timer that is set in accordance with a continuation/refresh signal. Applicant respectfully submits that these claims and their dependent claims are not made obvious by Conrad et al. and that the rejections in the office action based on Conrad et al. (whether under 35 U.S.C. Section 102 or 103) are improper and should be withdrawn.

Conrad et al. describes a distribution system that can produce and deliver live content, as well as pre-recorded content and other content, to commercial passenger aircraft via a satellite and ground-based infrastructure. The Conrad et al. system includes a Global Operations Center (GOC) 42 and Local Operation Centers (LOC) 43. The GOC 42 is the main clearinghouse for international media receiving global content from global and local content providers 47 and outside production houses 46. It delivers films, syndicated shows and other content intended for longer haul flights and also provides content to the LOCs which in turn input and add appropriate local media and deliver that data to local fleets of aircraft assigned to that region.

The hardware on-board an aircraft is shown in Figure 3 and described in the Conrad et al. specification beginning at col. 8, line 61. This on-board hardware "produces one or more streams of audio and video programming to the In-flight Entertainment (IFE) Interface Unit (227) for playout through the aircraft's existing IFE system (221)." Conrad et al., col. 11, lines 53-56. Conrad et al. describes that the playout schedules may be based on factors such as:

confirming receipt or non-receipt of various content, navigational data such as time of take-off, delays in take-off, length of flight, various time zones the plane is scheduled to encounter as travel progresses (which can affect live viewing), weather conditions, potential delays in landing, overall flight time that has unexpectedly varied ...Conrad et al., col. 12, lines 16-23.

Control of access to and distribution of content may be extended to "various zones in the plane, for e.g., first class, business class, coach zones." Conrad et al., col. 11, lines 11-13.

Thus, Conrad et al. is mainly concerned with delivering content to aircraft and the playing out and distributing of the delivered content on-board the aircraft. The "content reception apparatus" that receives and reproduces the content includes overhead monitors and in-seat video monitors of the "existing" IFE system. See Conrad et al., col. 1, lines 32-33. The office action and advisory action acknowledge there is no disclosure of the claimed timer in Conrad et al., but nonetheless argue that it would have been obvious to provide one. In particular, with respect to claim 1, the office action respectively identifies the personal computer and media server of Conrad et al. as the claimed "content reception apparatus" and "content distribution apparatus". The office action states:

Conrad does not expressly disclose a timer which is set based on the continuation signal wherein content is reproduced continuously for a period of time determined in accordance with said timer and wherein the content apparatus is unable to reproduce the content after expiration of the period of time, however, Conrad does suggest that content may be reproduced in accordance with a continuation signal for a limited period of time such as the duration of an airplane flight or other time limited factors (column 5, line 39-column 6, line 9 and column 12, lines 16-36). 8/9/2006 Office Action, page 6.

A similar statement is provided in the Response to Arguments section on page 2 of the office action, making reference to the col. 15, lines 25-44 disclosure of Conrad et al. in addition to the col. 5-6 and col. 12 references noted in the office action excerpt reproduced above.

Applicant respectfully disagrees with these assertions. None of these referenced portions of Conrad et al. discloses or suggests setting a timer as set forth in the pending claims. Indeed, the ability of the "content reception apparatus" in Conrad et al. to reproduce content is dependent on how the content is played out by the media server (i.e., if playout is stopped, reproduction stops). Conrad et al. teaches away from including a timer in the reception apparatus inasmuch as the ability of a reception apparatus to reproduce content is controlled by the playing out performed by the media server. Conrad et al. describes how content is delivered to and played out by a media server on an aircraft, wherein this playing out may be based on the duration of the airplane flight or other factors. However, absent impermissible hindsight, there is

nothing at all in Conrad et al. that is suggestive of using a timer as claimed to control the reproducing of content.

The column 5-6 disclosure referenced in the office action is directed to the production process at the “global operations”, “satellite uplink facilities” or at “existing production houses” and describes that the content may be produced based on factors such a flight duration. See also box 313 in Figure 2, which Figure shows “the functions performed by the global operations center of the system.” Conrad et al., column 3, lines 63-64. The column 12 disclosure referenced in the office action describes factors associated with the “playing-out” of content from the media server 220. See, e.g., col. 12, lines 26-28 (“Each of these factors [e.g., length of flight] may influence how the media server (220) controls play-out of channel schedules.”). The column 15 disclosure referenced in the office action relates to factors used by the system controller 222 to form a “play-out schedule”. There is no disclosure or suggestion in any of these portions of Conrad et al. of providing a timer in a passenger device (e.g., personal computer) for setting a period of time during which received content can be reproduced. Again, Conrad et al. discloses that the timing of the reproducing of content is determined by the “playing-out” of the content.

The office action also appears to interpret Conrad et al. as suggesting that the “played-out” audio and video content is received by the passenger’s personal computer. Applicant respectfully submits that distributing audio and video content to personal computers is not described in Conrad et al. Specifically, Applicants understand that this played-out audio and video content is distributed to passengers using the conventional aircraft in-seat audio and video distribution system. See col. 1, lines 19-60. The use of personal computers is described in connection with distributing “software applications and other data”. See, e.g., col. 3, lines 4-15. Indeed, col. 2, lines 55-56 expressly states that content “other than audio or video” is distributed to passengers’ personal computers.

Conrad et al.’s use of a smart card provides further confirmation that there is no use of a timer as claimed. Instead, to the extent the reproducing of content is controlled in Conrad et al., it is controlled using a smart card.

Applicants also traverse the characterizations of the operation of Conrad et al. set forth on page 7 of the office action. In particular, the office action contains the following characterization of Conrad et al.:

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if the receiver no longer receives the refresh signal, the content can also no longer be received and, therefore, the receiver will have no more content to display and will display the amount of content that has been received in the time period that the content has been received. One of ordinary skill would have found it obvious to modify Conrad to use a timer to measure this time period since it would have been within the level and knowledge of one of ordinary skill to use a timer as a "timeout" timer based on the refresh signal wherein, when the timer expires and no more content has been received from the distribution apparatus, the receiving unit will no longer display content.

First, Applicants do not find any description in Conrad et al. of the particular operations described above and the office action cites to no portion of Conrad et al. in this regard. Second, if Conrad et al. is already operative to stop displaying content in the absence of a refresh signal as the office action alleges, one of ordinary skill would seem to have no reason to provide a timer to measure this period as suggested in the office action. This once again confirms that Conrad et al. teaches away from using the claimed timer and that one of ordinary skill in the art would not have provided Conrad et al. with a timer as claimed.

For at least these reasons, claims 1, 2, 10, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 42 and the claims that depend therefrom patentably distinguish from Conrad et al.

Claims 7-9, 11, 32, 33 and 41 under 35 U.S.C. Section 103(a) as allegedly being "unpatentable" over Conrad et al. in view of Lotspeich (U.S. Patent No. 6,748,539). However, even if Lotspeich could somehow be forcedly combined with Conrad et al., Lotspeich does not remedy the deficiencies of Conrad et al.

For at least these reasons, Applicants respectfully submit that the rejections of the pending claims are improper and should be withdrawn.

Respectfully submitted,
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